

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

In re:

Mark Allen Wasmuth
Meredith Phillippi Wasmuth
Debtors

Case No. B-11-80633

**MOTION OF THE BANKRUPTCY ADMINISTRATOR
FOR DISMISSAL OF CASE WITH A TWO YEAR BAR FROM REILING**

The undersigned U. S. Bankruptcy Administrator ("BA") for the Middle District of North Carolina hereby moves the Court for entry of an order dismissing the above case pursuant to 11 U.S.C. § 1112(b) with a two year bar to reiling for failure of the debtors to appear and be examined at a meeting of creditors as required pursuant to Section 341 of the Bankruptcy Code and for bad faith and objective futility in filing this case. In support of this motion, the Bankruptcy Administrator respectfully shows the Court the following:

1. By Order and Notice of this Court dated April 19, 2011, the above-named debtors were ordered to appear and be examined at 11:00 a.m. on May 17, 2011 at the creditors' meeting scheduled pursuant to Section 341 of the Bankruptcy Code. Upon information and belief, a copy of the Notice was timely mailed to the debtor by or on behalf of the Office of the Clerk of Bankruptcy Court.
2. The above-named debtors did not appear on May 17, 2011 for examination at the Section 341 creditors' meeting, as evidenced by the attached minute sheet.
3. Grounds exist pursuant to Sections 105, 341, 343, and 521 of the Bankruptcy Code for entry of an order of dismissal as requested.
4. The Debtors previously filed a Chapter 11 in this court on March 2, 2009, Case No. 09-80353.¹ In that case, the Bankruptcy Administrator moved to convert or dismiss the case on multiple grounds on February 25, 2010 (Docket # 171). The BA's Motion is incorporated by reference as if fully set forth.
5. The BA's Motion was granted by this court on April 7, 2010, noting numerous problems with the case, and converting the case to Chapter 7 (Docket # 182). The court's Order of April 7 is incorporated by reference as if fully set forth.
6. On August 20, 2010, the Chapter 7 Trustee filed an adversary proceeding (AP No. 10-09077) against the Debtors. The Trustee alleged that the Debtors had never attended a 341 meeting in the Chapter 7 case despite 5 settings, had not responded to a subpoena served by the Trustee, and had not filed other required documents in the Chapter 7. The Trustee's complaint is incorporated by reference as if fully set forth. On October 22, 2010, this Court entered a judgment in favor of the Trustee which denied the Debtors' discharge.

¹ This was the Debtors' third bankruptcy case since 2007. The debtors filed Chapter 13 cases in the Eastern District in both 2007 and 2008. Both cases were dismissed.

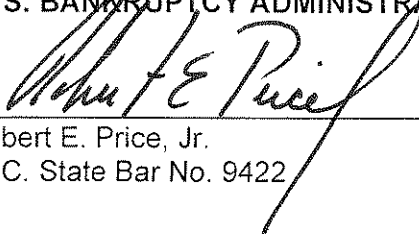
7. On October 26, 2010, the Trustee filed a Motion to Dismiss the debtors' case (Docket # 219) on numerous grounds, some of which are set out above. The Trustee's Motion is incorporated by reference. The Motion to Dismiss was granted by this Court on December 8, 2010 (Docket # 225). The Order Granting Motion to Dismiss Case is incorporated by reference as if fully set forth.
8. Based on the record in case No. 09-80353, the Debtors have shown bad faith in filing this case, and any reorganization is objectively futile.

WHEREFORE, the Bankruptcy Administrator respectfully requests:

1. Entry by the Court of its order dismissing the above named case for cause due to the failure of the debtors to appear and be examined at a meeting of creditors pursuant to Sections 105, 341, 343, and 521 of the Bankruptcy Code;
2. That in the event that dismissal is denied and the meeting of creditors is rescheduled, the case be summarily dismissed without further notice or hearing if the debtors fail to attend the rescheduled meeting of creditors and produce picture identification and evidence of social security information and give such testimony as required;
3. Entry by the Court of an order dismissing the case on the grounds of bad faith and objective futility pursuant to 11 U.S.C. 1112(b), with a 2 year bar to the filing of a bankruptcy petition in this court without prior court order.

Date: May 23, 2011

U. S. BANKRUPTCY ADMINISTRATOR


Robert E. Price, Jr.
N. C. State Bar No. 9422

U. S. Bankruptcy Administrator
Middle District of North Carolina
Box 1828
Greensboro, NC 27402
(336) 358-4170

MINUTE SHEET
SECTION 341 CREDITORS MEETING

MEETING:

TIME: 09:00am

CASE NAME: Wasmuth, Mark
Needle

CASE NO: 11-80633

CH: 7

OTHERS:

DEBTORS ADDRESS (as reported on petition):

DEBTOR 1 SSN (as reported on petition): xxx-xx-xxxx

VERIFIED ID & SSN: []

CHANGE IN SSN: _____

DEBTOR 2 SSN (as reported on petition): xxx-xx-xxxx

VERIFIED ID & SSN: []

CHANGE IN SSN: _____

DEBTOR ADDRESS CHANGE: _____

PHONE NUMBER: (_____) _____ - _____ EXT _____

APPEARANCES:

INDIVIDUAL CASE [] Debtor Appeared

[] Debtor did no Appear

JOINT CASE [] Both Debtors Appeared

☒ Neither Debtor Appeared

[] _____ only appeared

CORP/PARTNERSHIP Person appearing: _____

Title: _____

[] Debtor(s) Attorney _____ Appeared [] Trustee

_____ for _____

_____ for _____

_____ for _____

[] See reverse side for additional appearance

Debtor [] DID [] DID NOT receive Statement of Information required by 11 U.S.C. § 341

Debtor [] WAS [] WAS NOT examined regarding Statement of Information

DISPOSITION:

[] Debtor(s) examined and meeting concluded

☒ Meeting continued to June 8, 2011 at 10:30 (AM, PM) for the following reasons(s):

[] Debtor [] Joint Debtor did not appear for examination

[] _____

[] _____

NOTES: _____

Recording Number _____

(To be completed by BA)

Last date to object to
Discharge of Debtor(s):

By: Susan Galt

NORTH CAROLINA

GUILFORD COUNTY

VERIFICATION

Susan O. Gattis, being first duly sworn, deposes and says:

That she has read the foregoing MOTION OF BANKRUPTCY ADMINISTRATOR FOR DISMISSAL OF CASE and knows the contents thereof and that the facts stated therein are true and correct to the best of my knowledge and belief.

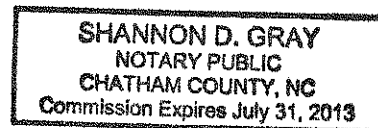
This the 19 day of May, 2011.

Susan O. Gattis
Susan O. Gattis

Sworn to and subscribed before me
this the 19th day of May, 2011

Shannon D. Gray
Notary Public

My Commission Expires: July 31, 2013



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Meredith Phillippi Wasmuth
Debtors

Case No. B-11-80633

The undersigned certifies that on *May 23, 2011* a copy of the **Motion of the Bankruptcy Administrator For Dismissal of Case** was duly served upon each of the following by first class mail:

Mark Allen & Meredith Wasmuth
65 David Miller Ct
Chapel Hill, NC 27517

U. S. BANKRUPTCY ADMINISTRATOR

By: *Susan Jenkins*
Bankruptcy Analyst

U. S. Bankruptcy Administrator
Middle District of North Carolina
Box 1828
Greensboro, NC 27402
(336) 358-4170